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In re Application of :
BAGLIONI et al. :
Application No.: 10/019,732 :
PCT No.: PCT/EP99/04607 :
Int. Filing Date: 02 July 1999 :
Priority Date: None :
Attorney Docket No.: 205,437 :
For: ENGINE FUELS CONSISTING OF AN
EMULSION COMPRISING ...

DECISION ON PETITION

This decision is in response to applicants' "Request to Rescind Notice of Abandonment Issued in Error and Petition to Revive" filed 16 September 2004, which is being treated as a "Petition under 37 CFR 1.182." The petition fee under 37 CFR 1.17 has been charged to Deposit Account no. 01-0035.

BACKGROUND

On 02 July 1999, applicants filed international application PCT/EP99/04607 which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 January 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 02 January 2002.

On 28 December 2001, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 02 April 2002, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 27 February 2004, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 02 April 2002 within the time period set therein.

On 16 September 2004, applicants filed the present petition which was accompanied, among other things: a copy of the declaration and power of attorney filed 18 April 2002; post card receipt for application no. 10/091,732 dated 18 April 2002; and fee transmittal form.

DISCUSSION

Accordingly, the present petition has been treated as a petition under 37 CFR 1.182 to correct the application number identified on applicants' 18 April 2002 submission to the proper application number, that is, 10/019,732.

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant and the title of invention. The receipt itemizes, inter alia: a check in the amount of \$65 and a Declaration for Patent Application. The receipt is stamped "Rec'd. OIPE 18 APR 2002" across its face. A review of the papers filed 18 April 2002 reveals that the declaration included sufficient information to permit identification of the application to which it was intended to be directed, i.e., national stage application no. 10/019,732.

The transmittal letter, executed declaration; and \$65 check filed on 18 April 2002 have been removed from application number 10/091,732 and placed in application folder number 10/019,732.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**. The declaration and power of attorney filed 18 April 2002 was a timely response to the Notification of Missing Requirements mailed 02 April 2002.

This application will be given an international filing date of 02 July 1999 and a date of 18 April 2002 under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



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